

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Michael D. McCain, Sr., :
 :
 Plaintiff, : Case No. 15-cv-1262
 :
 v. : JUDGE MICHAEL H. WATSON
 : Magistrate Judge Kemp
 Warden, Chillicothe :
 Correctional Inst., et al., :
 :
 Defendants. :

ORDER

Plaintiff's affidavit reveals that he currently possesses the sum of \$7.86 in his prison account which is insufficient to pay the full filing fee. His application indicates that his average monthly balance for a six-month period prior to filing his application to proceed in forma pauperis was unknown. His application further indicates that his average monthly deposits for a six-month period prior to filing his application to proceed in forma pauperis were \$20.16. In accordance with 28 U.S.C. §1915(b)(1), §804(a)(3) of the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321, plaintiff must pay an initial partial filing fee of 20 percent of the greater of these amounts. The greater amount is \$20.16 therefore, plaintiff's **initial partial filing fee** is **\$3.36** ($\$20.16 \times .20 = \3.36). That sum should be deducted from plaintiff's prisoner account, when funds are available, until the initial partial filing fee is paid. Once the initial partial filing fee is paid, the prison cashier's office shall deduct and forward to the Court 20% of the preceding month's income credited to the prisoner's account if, during that month, the balance of that account exceeded \$10, until the full fee has been paid. 28 U.S.C. §1915(b)(2). If plaintiff is transferred to another prison, the cashier should forward this

Order to that institution's cashier so that the cashier can collect and remit the monthly partial payment.

Checks are to be made payable to:

Clerk, U.S. District Court

Checks are to be sent to:

Prisoner Accounts Receivable
Joseph P. Kinneary United States Courthouse
Room 121
85 Marconi Blvd.
Columbus, OH 43215

The prisoner's name and case number must be noted on each remittance.

A prisoner may not be prohibited from bringing a civil action because he has no assets and no means to pay the initial filing fee. 28 U.S.C. §1915(b)(4), Id., §804(a)(3). If plaintiff does not currently possess the funds to pay the initial filing fee, the amount assessed by this Court will be collected from plaintiff's prison account when such funds become available.

WHEREUPON, it is ORDERED that plaintiff be allowed to prosecute his action without prepayment of fees or costs and that judicial officers who render services in this action shall do so as if the costs had been prepaid.

IT IS FURTHER ORDERED that Plaintiff's motion to amend (Doc. 5) and his motions to supplement (Docs. 8 and 13) are granted. The United States Marshal is directed to serve by certified mail upon each defendant named in part III, B and C of the form civil rights complaint a summons, a copy of the complaint, a copy of Doc. 5 Doc. 8, Doc. 13, and a copy of this Order.

The Clerk of Court is DIRECTED to mail a courtesy copy of the complaint and a copy of this Order to the Attorney General of Ohio, Criminal Justice Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215. Each defendant is ORDERED to answer or

otherwise respond to the complaint within forty-five (45) days after being served with a copy of the complaint and summons.

The Clerk of Court is DIRECTED to mail a copy of this Order and the attached instructions, which are hereby incorporated herein, to the plaintiff and the prison cashier's office. The Clerk is FURTHER DIRECTED to forward a copy of this Order to the Court's financial office in Columbus.

/s/ Terence P. Kemp
United States Magistrate Judge

**INSTRUCTIONS FOR PAYMENT OF PRISONER FILING FEE AND
SUBSEQUENT INSTALLMENT PAYMENTS**

The prisoner shown as the plaintiff on the attached order has filed a civil action in forma pauperis in this court and owes the court a filing fee. Pursuant to 28 U.S.C. §1915(b)(1) and (2), the fee is to be paid as follows:

The initial partial fee listed on the attached order should be deducted by the prison cashier's office from the prisoner's account, when funds are available therein, until the initial partial fee is paid. A check (or checks) in the appropriate amount(s) should be attached to a form like that accompanying these instructions and sent to the address indicated below.

Following the payment of the initial partial fee and continuing thereafter until the full fee has been paid, monthly payments of 20% of the preceding month's income credited to the prisoner's account should be deducted and forwarded to the court each time the amount in the account exceeds \$10.

If the prisoner has filed more than one complaint in this district, (s)he is required to pay a fee in each case. The prison cashier's office shall make the monthly calculations and payments for each case in which it receives an order granting in forma pauperis status and these instructions. **The prisoner's name and case number must be noted on each remittance.**

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